

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARIA VELARDE-CRIST, MICHAEL CRIST,

Case No. 1:20-cv-01306-AWI-BAM

Plaintiffs,

V.

EZEQUIEL TAFOYA ALVARADO
ACADEMY, DR. NICOLAS RETANA,
RUBI BERNAL, and DOES 1 through
20.

Defendants.

SCHEDULING ORDER

Rule 26 Disclosures: February 1, 2021

Amendment to
Pleadings: March 5, 2021

Expert Disclosure: April 29, 2022

Supplemental
Expert Disclosure: May 13, 2022

Non-Expert
Discovery Deadline: April 8, 2022

Expert Discovery

**Dispositive Motion
Filing Deadline:** August 5, 2022

Pretrial Conf.: Date: January 19, 2023
Time: 10:00 a.m.
Dept.: 2 (AWI)

Jury Trial: (10-12 days) Date: March 28, 2023
Time: 8:30 a.m.
Dept.: 2 (AWI)

This Court conducted a scheduling conference on December 16, 2020. Counsel Kevin Little appeared by video conference on behalf of Plaintiffs Maria Velarde-Crist and Michael Crist. Counsel Jeffery Anderson appeared by video conference on behalf of Defendants Ezequiel Tafoya Alvarado Academy and Rubi Bernal. Counsel Kathleen Hartman appeared by video conference on

1 behalf od Defendant Dr. Nicolas Retana.

2 In accordance with Federal Rule of Civil Procedure 16(b), this Court sets a preliminary
3 schedule for this action.

4 **1. Fed. R. Civ. P. 26(a)(1) Disclosures**

5 Initial disclosures shall be completed by **February 1, 2021**.

6 **2. Amendment to the Parties' Pleadings**

7 All stipulated amendments or motions to amend shall be filed by **March 5, 2021**.

8 **3. Consent to Magistrate Judge**

9 Pursuant to 28 U.S.C. § 636(c), the parties have not consented to conduct all further
10 proceedings in this case, including trial, before the Honorable Barbara A. McAuliffe, United States
11 Magistrate Judge.

12 **4. Discovery Cutoffs and Limits**

13 Initial expert witness disclosures by any party shall be served no later than **April 29, 2022**.

14 Supplemental expert witness disclosures by any party shall be served no later than **May 13, 2022**.

15 Such disclosures must be made pursuant to F.R.Civ.P. 26(a)(2)(A) and (B) and shall include all
16 information required thereunder. In addition, F.R.Civ.P. 26(b)(4) and F.R.Civ.P. 26(e) shall
17 specifically apply to all discovery relating to expert witnesses and their opinions. Each expert witness
18 must be prepared fully to be examined on all subjects and opinions included in the designations.
19 Failure to comply with these requirements will result in the imposition of appropriate sanctions, which
20 may include the preclusion of testimony or other evidence offered through the expert witness. In
21 particular, this Court will enforce preclusion of testimony or other evidence if F.R.Civ.P. 26(e) is not
22 strictly complied with.

23 All non-expert discovery, including motions to compel, shall be completed no later than **April**
24 **8, 2022**. All expert discovery, including motions to compel, shall be completed no later than **July 8,**
25 **2022**. Compliance with these discovery cutoffs requires motions to compel be filed and heard
26 sufficiently in advance of the cutoff so that the Court may grant effective relief within the allotted
27 discovery time. A party's failure to have a discovery dispute heard sufficiently in advance of the
28 discovery cutoff may result in denial of the motion as untimely.

1 **5. Pretrial Motion Schedule**

2 All pre-trial motions, both dispositive and non-dispositive (except motions to compel,
3 addressed above), shall be filed no later than **August 5, 2022**. Non-dispositive motions are heard on
4 Fridays at 9:00 a.m., before the Honorable Barbara A. McAuliffe, United States Magistrate Judge, in
5 Courtroom 8. Before scheduling non-dispositive motions, the parties shall comply with Local Rule
6 230 or Local Rule 251. Counsel must comply with Local Rule 251 with respect to discovery disputes
7 or the motion will be denied without prejudice and dropped from calendar. In addition to filing a joint
8 statement electronically, a copy of the joint statement shall also be sent Judge McAuliffe's chambers
9 by email to bamorders@caed.uscourts.gov.

10 The parties are advised that unless prior leave of the Court is obtained, all moving and
11 opposition briefs or legal memorandum in civil cases before Judge McAuliffe shall not exceed twenty-
12 five (25) pages. Reply briefs by the moving party shall not exceed ten (10) pages. These page
13 limitations do not include exhibits. Briefs that exceed this page limitation, or are sought to be filed
14 without leave, may not be considered by the Court.

15 Counsel or pro se parties may appear and argue non-dispositive motions before Judge
16 McAuliffe by telephone by dialing the court's teleconference line at (877) 411-9748 and entering
17 Access Code 3219139, provided they indicate their intent to appear telephonically or by video
18 conference on their pleadings or by email to evaldez@caed.uscourts.gov at least one week prior to the
19 hearing. If the parties request video conference, the parties shall be provided with the Zoom ID and
20 password by the Courtroom Deputy prior to the conference. The Zoom ID number and password are
21 confidential and are not to be shared. Appropriate court attire required.

22 Dispositive Pre-Trial Motions are heard in Courtroom 2 before the Honorable Anthony W.
23 Ishii, Senior District Judge. In scheduling such motions, the parties shall comply with Local Rules
24 230 and 260.

25 **Motions for Summary Judgment or Summary Adjudication**

26 Prior to filing a motion for summary judgment or motion for summary adjudication the parties
27 are ORDERED to meet, in person or by telephone, and confer to discuss the issues to be raised in the
28 motion.

1 The purpose of meeting shall be to: 1) avoid filing motions for summary judgment where a
2 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole
3 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
4 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
5 expense of briefing a summary judgment motion; and 6) to arrive at a joint statement of undisputed
6 facts.

7 **6. Settlement Conference**

8 A Settlement Conference has not been scheduled. The parties are advised to contact the Court
9 if they determine that a settlement conference would be beneficial. If a settlement conference is set,
10 the parties are advised that unless otherwise permitted in advance by the Court, the attorneys who will
11 try the case shall appear at the settlement conference with the parties and the person or persons having
12 full authority to negotiate and settle the case, on any terms, at the conference.

13 **7. Pretrial Conference**

14 This Court sets a pretrial conference for **January 19, 2023, at 10:00 a.m.** in Courtroom 2 and
15 will be heard before Senior District Judge Anthony W. Ishii.

16 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
17 parties are further directed to submit an electronic copy of their pretrial statement in Word format,
18 directly to Senior District Judge Ishii's chambers by emailing it to awiorders@caed.uscourts.gov.

19 The parties' attention is directed to this Court's Local Rules 281 and 282. The parties must
20 identify all exhibits and witnesses, including those for rebuttal and/or impeachment purposes. No
21 exhibit or witness other than those listed in the joint pretrial statement and included in the Pretrial
22 Order may be used at trial. This Court will insist upon strict compliance with those rules.

23 At the pretrial conference, the Court will set deadlines, among others, to file motions in limine,
24 final witness lists, exhibits, jury instructions, objections, and other trial documents.

25 **8. Trial Date**

26 A ten-to-twelve-day jury trial is set for **March 28, 2023, at 8:30 a.m.** in Courtroom 2 before
27 United States Senior District Judge Anthony W. Ishii.

28 **9. Effect of This Order**

This order represents the best estimate of the Court and parties as to the agenda most suitable to dispose of this case. If the parties determine at any time that the schedule outlined in this order cannot be met, the parties are ordered to notify the Court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference. Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations with attached exhibits, where appropriate, which establish good cause for granting the relief requested.

Failure to comply with this order shall result in the imposition of sanctions.

IT IS SO ORDERED.

Dated: **December 16, 2020**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE